

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Richmond Division

IN RE:
HOWARD WESLEY CONSELYEA, JR.
Debtor

Case No. 19-33306-KLP
Chapter 7

WELLS FARGO BANK, N.A.
Movant

v.
HOWARD WESLEY CONSELYEA, JR.
Debtor/Respondent
and
PETER J. BARRETT
Trustee/Respondent

MOTION FOR RELIEF FROM AUTOMATIC STAY

Wells Fargo Bank, N.A. (“Movant”) hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay, with respect to certain real property of the Debtor having an address of 4631 Turner Road, Richmond, VA 23234 (the “Property”), for all purposes allowed by the Note (defined below), the Deed of Trust (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 & 157.
2. A petition under Chapter 7 of the United States Bankruptcy Code was filed with respect to the Debtor on June 21, 2019.
3. The Debtor, Howard W. Conselyea has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$133,496.00 (the “Note”). A copy of the Note is attached hereto as Exhibit 2. Movant is an entity entitled to enforce the Note.
4. Pursuant to that certain Deed of Trust (the “Deed of Trust”), all obligations (collectively, the “Obligations”) of the Debtor, Howard W. Conselyea under and with respect to the Note and the Deed of Trust are secured by the Property. The lien created by the Deed of Trust was perfected by recording of the Deed of Trust in the office of the Clerk of the Circuit Court of Chesterfield County, Virginia. A copy of the recorded Deed of Trust is attached hereto as Exhibit 1.

Lauren French, VSB# 85478
8100 Three Chopt Rd.
Suite 240
Richmond, VA 23229
(804) 282-0463(Phone)
Attorney for the Movant

5. The legal description of the Property is:

ALL that certain lot, piece or parcel of land, with all improvements thereon and appurtenances thereunto belonging, lying and being in Clover Hill District, formerly Manchester Magisterial District, Chesterfield County, Virginia, containing .288 acre, as shown on plat entitled "Property of Richard M. Allen; dated October 9, 1967, made by R. A. Carrough, C.L.S., and revised February 15, 1971, and designated thereon as Parcel A, a copy of which is attached to and recorded with a Deed in Deed Book 1006, page 124, and more particularly described as follows:

BEGINNING at a point 212 feet from the centerline of Falling Creek on the eastern right of way line of Virginia Highway No. 543, and running thence 155 feet along said right of way N. 12 degrees 40' 15" E. for a distance of 155 feet to a point; thence S. 74 degrees 54' E. 69.06 feet to a point; thence S. 00 degrees 53' E. 140.00 feet to a point; thence N. 86 degrees 15' 15" W. 103.03 feet to the place and point of beginning.

LESS AND EXCEPT: 0.021 acre conveyed to Kenneth W. Davis and Shelby B. Davis, his wife, by deed from James C. Routson, dated November 4, 1985, to be recorded in the Clerk's Office, Circuit Court, Chesterfield County, Virginia, said parcel of land referenced on a plat made by Virginia Surveys dated September 30, 1985, entitled "Map Showing 0.021 Acres of Land Situated on Turner Road, in Chesterfield Co., Virginia", which is also to be recorded with the deed previously mentioned, to which reference is hereby made for a more particular description.

6. As of July 10, 2019, the outstanding amount of the Obligations due to the Movant, less any partial payments or suspense balance is:

Unpaid Principal Balance	\$99,033.05
Unpaid, Accrued Interest	\$1,964.83
Uncollected Late Charges	\$125.16
Mortgage Insurance Premiums	\$0.00
Taxes and Insurance Payments on behalf of Debtor	\$563.26
Other Costs	\$0.00
Less: Partial Payments	\$0.00
Minimum Outstanding Obligations	\$101,686.30

7. The following chart sets forth the number and amount of contractual payments due pursuant to the terms of the Note that have been missed by the Debtor as of July 10, 2019:

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
4	04/01/2019	07/01/2019	\$1,043.06	\$4,172.24
Less contractual partial payments (suspense balance):				\$0.00

Total Contractual Payments: \$4,172.24

8. The estimated value of the Property is \$50,000.00. The basis for such valuation is Debtor's Schedules.

9. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

10. Cause exists for relief from the automatic stay for the following reasons:

a. Movant's interest in the Property is not adequately protected. Movant's interest in the collateral is not protected by an adequate equity cushion.

b. Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor has no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

11. Pursuant to the Debtor Statement of Intention, the Debtor has surrendered their interest in the Property.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by the Note, the Deed of Trust, and applicable law, including but not limited to allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.

3. For such other relief as the Court deems proper.

Respectfully Submitted,

Dated: July 19, 2019

/s/ Lauren French

Lauren French VSB# 85478
Attorney
BWW Law Group, LLC
8100 Three Chopt Rd.
Suite 240
Richmond, VA 23229
(804) 282-0463 (phone)
(804) 282-0541 (facsimile)
bankruptcy@bww-law.com
Attorney for the Movant

CERTIFICATE OF SERVICE

I certify that on this 19th day of July, 2019, the following person(s) were or will be served with a copy of the foregoing Motion for Relief from Automatic Stay electronically via the CM/ECF system or by first class mail, postage prepaid:

Peter J. Barrett, Trustee
901 East Byrd Street
Suite 1000
Richmond, VA 23219

Angela N. Neiman, Esq.
Main Street Law Offices
1701 W. Main Street
Richmond, VA 23220

Howard Wesley Conselyea, Jr.
4631 Turner Road
Richmond, VA 23234

/s/ Lauren French

Lauren French VSB# 85478
Attorney
BWW Law Group, LLC